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*Wm. McChesney, Jr.*

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE: B-191290**

**DATE: June 22, 1978**

**MATTER OF: Colonie Builders, Inc./ Norflor Construction Corp., A Joint Venture--Reconsideration**

**DIGEST:**

Request for reconsideration received in GAO more than 10 days after basis for protest is known, or should have been known, is untimely and not for consideration.

By letter received in our Office on May 1, 1978, Colonie Builders, Inc./Norflor Construction Corp., A Joint Venture (Colonie/Norflor), requests reconsideration of our decision in Colonie Builders, Inc./Norflor Construction Corp., A Joint Venture, B-191290, March 9, 1978, 78-1 CPD 190.

In that decision we dismissed Colonie/Norflor's protest concerning the alleged failure of the proposed awardee of a construction contract to satisfy the Minority Business Enterprise (MBE) requirements of the Public Works Employment Act of 1977, Pub. L. 95-28, 91 Stat. 116. We stated that this provision had been the subject of conflicting district court opinions and was currently the subject of litigation in the United States Supreme Court, and that, therefore, we would not review protests concerning the provision until the matter is finally decided by the courts.

Colonie/Norflor now argues that these cases relate to the constitutionality of the provision and are "neither relevant nor material to the issues of this protest." Section 20.9(b) of our Bid Protest Procedures, 4 C.F.R. § 20.9(b) (1977), provides that requests for reconsideration must be received in our Office not later than 10 days after the basis for reconsideration is known, or should have been known. Since the basis for reconsideration was known or should have been known when Colonie/Norflor received our March 9 decision and the request for reconsideration was not received until nearly 2 months had elapsed, Colonie/Norflor's request is untimely and not for consideration.

*R. J. Kish*  
Acting Comptroller General  
of the United States